**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO.12141 OF 2005**

**DATED: 23rd November, 2005.**

Between:

Syed Aqueel Ahmed. .. Petitioner.

And

The Administrator of A.S. Peta Mosque
and Tomb Estate-cum-Additional Senior
Civil Judge, Nellore District. .. Respondent.

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.12141 OF 2005**

**ORDER:**

The petitioner herein was appointed as Managing Trustee of A.S. Peta Mosque and Tomb Estate, A.S. Peta by the proceedings of the respondent dated 10-09-2004. In the said order itself, it was made clear that the appointment was made tentatively for a period of six months from the date of assumption of the charge and that the appointment being purely temporary was liable to be terminated at any time without notice if his services were found unsatisfactory. It is not in dispute that the petitioner has assumed the charge on 16-09-2004. Questioning the said order, one Md. Anwar Basha filed W.P.No.18802 of 2004. Though by order dated 22-12-2004 the order of appointment dated 10-09-2004 was suspended during the pendency of the writ petition, ultimately the writ petition was dismissed by order dated 1-03-2005. Though W.A.No.423 of 2005 was filed against the said order, the same was also dismissed on 15-03-2005. The petitioner alleges that even after dismissal of the writ petition and the writ appeal, the respondents did not issue the orders allowing the petitioner to resume his duties in spite of the fact that he submitted a joining report on 10-03-2005 itself. On the other hand, the respondent passed the impugned order dated 17-05-2005 terminating the services of the petitioner as Managing Trustee.

It is primarily contended by the petitioner that before passing the impugned order since no opportunity was afforded to the petitioner to rebut the allegations against the petitioner, which are very serious in nature, the impugned order is in violation of the principles of natural justice.

In the counter-affidavit filed by the respondent, the fact that the petitioner was not issued any notice before passing the impugned order of termination has not been disputed. However, it is contended that the appointment of the petitioner itself was on temporary basis for a period of six months and as per the scheme he is entitled for extension only if his services were found satisfactory during the period of six months. The further contention of the respondent is that since admittedly the period of six months has already expired and since the performance of the petitioner was found to be unsatisfactory, he cannot claim any right for extension and having regard to the gravity of the allegations as reflected in the enquiry report dated 17-5-2005,

the impugned order of termination was rightly passed.

I have heard the learned Counsel for both the parties and perused the material on record.

A perusal of the impugned order shows that the same was based on certain allegations received against the petitioner that he was creating communal differences among the devotees. It is true that termination on such ground without affording a reasonable opportunity to the person against whom the allegations were made to rebut the allegations is illegal being in violation of the fundamental principles of natural justice. However, since the period for which the petitioner was appointed has already expired, the order of termination has been rendered superfluous. Hence, the interference of this Court is not warranted.

It is made clear that the allegations on the basis of which the impugned order was passed shall not be taken as established since the petitioner was not admittedly afforded an opportunity to explain the same. It is also made clear that this Court declined to interfere only on the ground that the order of appointment has worked itself out and that this Court shall not be understood to have upheld the order of termination confirming the allegations.

With the above observation, the Writ Petition is disposed of. No costs.

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23rd November, 2005.

Note- CC in one week.

(B/O)

gbs